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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,801	12/27/2001	Anthony D. Gonzalez	682.0023USU	7223

7590 05/17/2005

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EXAMINER

KISHORE, GOLLAMUDI S

ART UNIT PAPER NUMBER

1615

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/032,801

Applicant(s)

GONZALEZ ET AL.

Examiner

Gollamudi S. Kishore, Ph.D

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-38 and 40-49 is/are pending in the application.
- 4a) Of the above claim(s) 22,25-36 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-21,23,24,37,38,40-47 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The amendment dated 3-3-05 is acknowledged.

Claims included in the prosecution are 1-2, 5-21, 23-24, 37-38, 40-47 and 49.

Upon consideration, the 112, second paragraph rejection is withdrawn.

#### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-2, 23-24, 37-47, 49, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (EP 1 136064 A2), and further in view of Garrison et al. (US 6355264 B1) as set forth in the previous action.

Applicant's arguments have been fully considered, but are not found to be persuasive. Applicant argues that in view of the differences between the differences between a silicone resin and a silicone rubber, the as discussed relative to the 112, second paragraph rejection, the rejection under 103 (a) is rendered moot. It is unclear to the examiner as to how the 103 rejection is rendered moot since as pointed out in the previous office action, careful review of instant specification on page 8 indicates that what applicant uses and defines the powder as " a hybrid polymer powder is a cross polymer selected from, but not limited to, silicone, dimethicone, cyclomethicone, vinyl dimethicone, organomodified silicone, organomodified dimethicone, and any combinations thereof. A preferred hybrid silicone powder is vinyl dimethicone/methicone silsesquioxane cross polymer, available commercially as KSP 101 from Shin-Etsu Silicones". Page 4, col. 2, lines 13-15 of EP indicates the use of dimethicone/vinyl

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dimethicone cross polymer. Therefore, the reference meets the requirements of instant claims. Applicant's arguments with regard to Garrison et al is that the reference does not teach both silicone resin and a silicone rubber are not persuasive since EP teaches the hybrid silicone having the silicone resin and the silicon drubber and Garrison is combined for its teachings of the second component, volatile silicone; therefore, not found to be persuasive. The rejection is still proper and thus, maintained.

The reference of Vatter et al, which teaches the hybrid silicones in cosmetic compositions, is cited of interest (col. 6, lines 42-49 and examples).

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

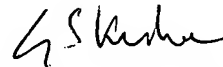
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gollamudi S. Kishore, Ph.D whose telephone number is (571) 272-0598. The examiner can normally be reached on 6:30 AM- 4 PM, alternate Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gollamudi S Kishore, Ph.D  
Primary Examiner  
Art Unit 1615

GSK